

REMARKS

Claims 17-21 are allowed. Claims 12 and 13 are objected to, but would be allowed if rewritten in independent form. Claims 1-11, 14 and 16 are pending and remain in the application. No new subject matter has been added.

A. 35 U.S.C. § 103(a)

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Muller in view of Dhuller - Claims 1- 9 and 11

Claims 1-9 and 11 of the parent application stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,674,319 issued June 23, 1987 to Richard S. Muller, (hereinafter "the Muller patent") in view of the U.S. Patent No. 6,215,644 issued April 10, 2001 to Vijaykumar R. Dhuler (hereinafter "the Dhuler patent")(Office Action, pages 2).

Regarding independent claims 1 and 9, the Office contends that while the Muller patent does not disclose a fixed actuator plate, the Dhuler patent does disclose such a plate, and that it would have been obvious to include the fixed actuator plate of Dhuler in the Muller reference (Office Action, page 2). However, the Office inadvertently construes the "fixed actuator plate 20" i.e., the cantilever actuator 20 of the Dhuler patent, as being fixed. The actuator plate of Dhuler is actually moveable, and therefore not fixed, as described in the Detailed Description section of the Dhuler patent at col.5, lines 3-5.

Neither the Muller patent nor the Dhuler patent, either alone or in combination, teach or suggest a fixed actuator plate, as is disclosed in claims 1 and 9 of the present invention. Because neither the Muller patent nor the Dhuler patent teach or suggest all of the limitations of claims 1 and 9, from which dependent claims 2-8 and claim 11 depend respectively, claims 1-9 and claim 11 are not rendered obvious over the Muller patent in view of the Dhuler patent. Therefore, reconsideration and withdrawal of the Section 103(a) rejection of claims 1-9 and 11 are respectfully requested.

Muller in view of Dhuler and further in view of Miller - Claims 10, 14 and 16

Claims 10, 14, and 16 of the parent application stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Muller patent in view of the Duhler patent, and further in view of the U.S. patent No. 5,185,690 issued February 9, 1993 to Mark L. Miller (hereinafter "the Miller patent") (Office Action, pages 3).

Regarding claim 10, the Office contends that "it would have been obvious to use the flexible dielectric layer of the Miller patent as the suspension structure of Muller." (Office Action at page 3). However, as described above, neither the Muller patent, the


Duhler patent nor the Miller patent teach or suggest all of the limitations of claim 9 from which claim 10 depends. Therefore claim 10 is not rendered obvious over the Muller patent in view of the Dhuler patent and further in view of the Miller patent.

Regarding claims 14 and 16, the Office contends that "it would have been obvious to use the flexible dielectric layer of Miller to change the capacity of the capacitor of Muller." (Office Action at page 4). However, neither the Muller patent, the Duhler patent, nor the Miller patent, either alone or in combination, teach or suggest a fixed actuator plate as is disclosed in claim 14 of the present invention, from which claim 16 depends. Therefore, because neither the Miller patent, the Muller patent, nor the Duhler patent teach or suggest all of the limitations of amended claim 14, from which claim 16 depends, claims 14 and 16 are not rendered obvious over the Muller patent in view of the Dhuler patent and further in view of the Miller patent. Therefore, reconsideration and withdrawal of the Section 103(a) rejection of claims 10, 14 and 16 are respectfully requested.

In view of the foregoing remarks, the Applicants request allowance of the application. Please forward further communications to the address of record. If the Examiner needs to contact the below-signed agent to further the prosecution of the application, the contact number is (503) 264-0944.

Respectfully submitted,

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